

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

OSBALDO JOSE-NICOLAS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 15-cv-964-NJR-DGW
	)	
NATHAN BERRY, et al.,	)	
	)	
Defendants.	)	

**COMBINED RENEWED MOTION FOR JUDGMENT AS A MATTER OF LAW,  
MOTION FOR NEW TRIAL, AND MOTION TO ALTER OR AMEND JUDGMENT**

NOW COME the Defendants, NATHAN BERRY, AIMEE LANG, WILLIAM QUALLS, and JUSTIN SNELL, by and through their counsel, LISA MADIGAN, Attorney General for the State of Illinois, pursuant to Federal Rules of Civil Procedure 50 and 59, and for their combined renewed motion for judgment as a matter of law, motion for new trial, and motion to alter or amend judgment (hereinafter “combined post-trial motion”), state as follows:

1. Plaintiff, an inmate of the Illinois Department of Corrections, filed this lawsuit alleging Defendants, various employees of the Illinois Department of Corrections, violated his constitutional rights at Menard Correctional Center. (Doc. 50.)

2. Ultimately, this matter proceeded to jury trial on the following claims: (1) Eighth Amendment excessive force claim against Nathan Berry and William Qualls; (2) Eighth Amendment failure to intervene claim against Nathan Berry, Matthew Purdom, William Qualls, and Justin Snell; (3) Eighth Amendment deliberate indifference to a serious medical need claim against Nathan Berry, Aimee Lang, Matthew Purdom, William Qualls, and Justin Snell; and (4) Illinois state law willful and wanton conduct claim against Nathan Berry, Aimee Lang, Matthew Purdom, William Qualls, and Justin Snell. (Doc. 160.)

3. Following a three-day trial, the jury found in favor of Matthew Purdom on all claims,<sup>1</sup> in favor of Nathan Berry on Plaintiff's excessive force claim, in favor of Justin Snell on Plaintiff's deliberate indifference to a serious medical need claim, and in favor of Plaintiff on the remaining claims. (Doc. 203.)

4. The jury awarded Plaintiff \$1,000.00 in compensatory damages and assessed punitive damages as follows: \$200,000.00 against William Qualls; \$50,000.00 against Aimee Lang; \$1,000.00 against Nathan Berry; and \$100.00 against Justin Snell. *Id.*

5. Based on the Court's prior orders, voluntary dismissal of various claims and defendants, and the jury verdict, the Clerk of the Court entered judgment on August 20, 2018. (Doc. 207.)

6. Federal Rules of Civil Procedure 50 and 59 provides that within twenty-eight days of entry of judgment, a party can renew a motion for judgment as a matter of law, move for a new trial, or move to alter or amend the judgment. Fed. Rs. Civ. P. 50 & 59.

7. Defendants now renew their motion for judgment as a matter of law because Plaintiff's Willful and Wanton Conduct claim (Count 9) is duplicative and should have been dismissed.

8. Additionally, and in the alternative, Defendants move for a new trial or move to alter or amend the judgment because the award of punitive damages is excessive, because Plaintiff's Willful and Wanton Conduct claim (Count 9) is barred by state sovereign immunity, and because an evidentiary issue deprived Defendants of a fair trial.

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<sup>1</sup> Since Matthew Purdom prevailed at trial, he does not join the instant motion.

9. Defendants hereby incorporate by reference a simultaneously filed memorandum of law in support of this Motion.

WHEREFORE, for the above and foregoing reasons, Defendants respectfully request this honorable Court grant their Motion, enter judgment in their favor on Plaintiff's Willful and Wanton Conduct claim (Count 9) or dismiss Plaintiff's Willful and Wanton Conduct claim (Count 9), remit the award of punitive damages, order a new trial, and/or grant them any additional relief that the Court deems just and proper.

Respectfully submitted,

NATHAN BERRY, AIMEE LANG, WILLIAM  
QUALLS, and JUSTIN SNELL,

Defendants,

LISA MADIGAN, Illinois Attorney General,

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By: s/Jeremy C. Tyrrell  
Jeremy C. Tyrrell  
Assistant Attorney General

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## CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2018, I electronically filed *Combined Renewed Motion for Judgment as a Matter of Law, Motion for a New Trial, and Motion to Alter or Amend Judgment*, with the Clerk of the Court using the CM/ECF system, which will send notification of same to the following:

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Respectfully submitted,

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